

EXHIBIT A

In the Matter Of:

IN RE: TELESCOPES ANTITRUST LITIGATION

5:20-cv-03642-EJD

J. DOUGLAS ZONA, PH.D.

December 20, 2024



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December 20, 2024

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APPEARANCES

FOR THE PLAINTIFFS:

FROST LLP

BY: JOSH STAMBAUGH, ESQ.

10960 Wilshire Boulevard, Suite 2100

Los Angeles, California 90024

FOR THE DEFENDANTS:

BRAUNHAGEY & BORDEN

BY: GARRETT BIEDERMANN, ESQ.

747 Front Street, 4th Floor

San Francisco, California 94111

There also being present in the deposition room
Olivia Smith and Peter Matteson, videographer, and via
Zoom Michael McDonald, Lawrence Liu, and Donald Stamper,
Exhibit Technician.

---oOo---

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1 MR. BIEDERMANN: Objection to form. Calls for
2 a legal conclusion.

3 THE WITNESS: I'm not sure what you mean by
4 conspiracy.

5 MR. STAMBAUGH: Q. Do you have any opinions
6 on whether or not there was a conspiracy to fix prices
7 in your report in this case?

8 MR. BIEDERMANN: Objection to form. Calls for
9 a legal conclusion.

10 THE WITNESS: My understanding was that before
11 2005 in particular, there was cross-ownership and
12 cross-directorships, and that would tend to blunt
13 competition between what might otherwise be two
14 independent competitors.

15 MR. STAMBAUGH: Q. Do you believe that there
16 was a conspiracy at any point in time? Is that part of
17 your opinions in this case?

18 MR. BIEDERMANN: Objection to form. Calls for
19 a legal conclusion.

20 THE WITNESS: What I described might be a
21 conspiracy.

22 MR. STAMBAUGH: Q. I'm not asking about what
23 might be described as a conspiracy. I'm asking is one
24 of your opinions in this matter that there was a
25 conspiracy to fix prices?

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1 Q. According to what?

2 A. My analysis.

3 Q. What analysis did you do that determined the
4 JOC share was -- I believe your word was irrelevant?

5 A. Well, I'm looking at the share table on
6 page 17 of my report, Exhibit 2, and I suppose they have
7 10 percent market share still after 2016, but before
8 then, it seemed small.

9 Q. Let's go ahead and move to Exhibit 2. This is
10 your November 1st or May 20th report.

11 A. Yes.

12 Q. Paragraph 98.

13 A. Yes.

14 Q. In Paragraph 98, you state in the figure
15 below, I displayed the expected overcharged conditional
16 on the number of cartel members and cartel market share
17 as measured by the Connor PIC data. The table shows how
18 the expected overcharges -- overcharge increases as
19 market share and number of cartel members increase. In
20 applying these overcharges, I have used a market share
21 for Synta -- excuse me. Sunny slash Synta of 40 percent
22 open paren, which likely understates the combined share
23 of Sunny and Synta and is thus conservative close paren
24 for the base period before Synta acquired Celestron in
25 2005.

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1 So, Dr. Zona, you have assumed a market share
2 of Sunny and Synta of 40 percent prior to 2005; is that
3 correct?

4 A. Yes.

5 Q. And you believe that that resulted in
6 estimated overcharge of 16.7 percent in the pre-2005
7 period; is that correct?

8 A. Well, it did. There's no belief about it. It
9 did result in 16.7 in the -- conditional on two cartel
10 members of conspiracy one, two, and the 40 percent
11 market share.

12 Q. What do you mean by it did result in a
13 16.7 percent overcharge?

14 A. I'm just reading the number from the table,
15 and the table is what it says. The conditional expected
16 value of the overcharge based on the number of cartel
17 members in the cartel market share measured by Connor.
18 So it's just an average -- the expected conditional
19 expectation based on the Connor data.

20 Q. You didn't do any actual analysis to see if
21 that did happen in the pre-2005 period though, correct?

22 MR. BIEDERMANN: Objection to form.

23 THE WITNESS: I don't know how I could
24 possibly do that. You're asking me did I observe the
25 but-for world. No, I can't observe the but-for world.

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1 THE WITNESS: I gave you my answer.

2 MR. STAMBAUGH: Q. Is there a reason you
3 can't answer my question?

4 A. I did answer your question.

5 MR. BIEDERMANN: Objection; argumentative.

6 MR. STAMBAUGH: Q. Did you rely on any
7 empirical data from the telescope industry in order to
8 arrive at your estimated alleged 16.7 percent
9 overcharge?

10 MR. BIEDERMANN: Objection; asked and
11 answered.

12 THE WITNESS: 16.7 percent is based on
13 Connor's data of the effect of conspiracy on prices, and
14 there's no specific telescopes data that I'm aware of
15 that's part of that dataset.

16 MR. STAMBAUGH: Q. And therefore, you did not
17 rely on any specific telescope industry data, correct?

18 MR. BIEDERMANN: Objection to form.

19 THE WITNESS: In analyzing Connor's data, I
20 didn't rely on data that he didn't have in his dataset.

21 MR. STAMBAUGH: Q. In order to rely at the
22 16.7 percent estimated alleged overcharge, you didn't
23 look at any sales data in the telescope industry,
24 correct?

25 A. That would be different analysis. No, I

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1 didn't do the analysis that you're suggesting to come up
2 with 16.7. I only used the PIC data to come up with the
3 PIC databased 16.7.

4 Q. Let's pause here. You've given me a good
5 comparison. You came up with 16.7 percent under one
6 part of your analysis, one model let's call it, and you
7 came up with 6.9 percent in the pre-2005 using another
8 analysis, another model. Why did you go to the 16.7
9 instead of the 6.9?

10 A. I thought that the 16.7 was more specific to
11 the facts and circumstances of the case than Cournot.
12 The Cournot model is, as I tried to explain in my
13 report, and I may not have done it very well, but it's a
14 starting point that most IO economists will use to
15 evaluate the effect of lost competition or conspiracy on
16 market prices. So I started there, and I have made
17 calculations, came up with 6.9 in that particular
18 circumstance, and other numbers in other circumstances.
19 17.4, 35.7 depending on the number of competitors that
20 are illuminated, so I thought that the Cournot model
21 was, again, a sort of a academic-type starting point,
22 and I applied directly a model that comes from a
23 textbook in coming up with those numbers, which I've
24 cited, and then when I used the PIC data, I'm actually
25 using the facts and circumstances of the telescopes

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1 here, but yeah. I don't recall.

2 Q. So you don't know what data that you looked
3 at, if any, in order to arrive at 40 percent market
4 share, correct?

5 A. I don't recall what I used, and I don't have a
6 reference in here.

7 Q. And you can't tell us here today why you chose
8 that number? How you arrived at that number?

9 A. It's the lowest, most conservative of the
10 numbers that I have in my table, which might be why I
11 used 16.7 and why I used, you know, ultimately
12 40 percent.

13 Q. Is that why you used 40 percent, because you
14 looked at the Connor PIC data and decided to use the
15 lowest market share to perform the calculation; is that
16 the reason?

17 A. I don't -- as I just said, I don't recall
18 exactly what the reason was for -- for the 40 percent
19 number. What I observe now is that it is the lowest
20 number. So if we come up with a higher number than
21 40 percent, it will result in a number bigger than 16.7
22 from the Connor data.

23 Q. So you didn't do any calculation based on any
24 actual data to arrive at 40 percent?

25 A. I didn't say that.

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1 MR. BIEDERMANN: Objection to form.

2 MR. STAMBAUGH: Q. What calculation did you
3 perform, Dr. Zona, to arrive at 40 percent?

4 A. I'm telling you I don't remember what it was.

5 Q. You told me earlier that there are two
6 foundational pieces of the Connor PIC data, right?
7 There's number of competitors and market share. And
8 what you're telling us now is that you had no basis that
9 you can explain to us as to why you arrived at a
10 40 percent combined market share for Sunny and Synta --

11 MR. BIEDERMANN: Objection to form.

12 MR. STAMBAUGH: Q. -- is that correct?

13 A. Your question really suggests that you
14 don't -- that I'm not communicating the method that was
15 used because that's -- there's a lot of misunderstanding
16 embodied in your question. There are two important --
17 there are two important dimensions in determining the
18 affect of conspiracy on market price, and they're -- the
19 number of competitors that are involved and the market
20 share that they command, those are two numbers that
21 aren't from the PIC data.

22 They're from economic theory and from
23 industrial organization economics. So if you're looking
24 at that all the empirical analysis that's built into
25 that. So those two numbers are the two characteristics

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1 model is going to spit out and with respect to one of
2 those two dimensions, you have no idea how you arrived
3 at the 40 percent market share figure; isn't that
4 correct, sir?

5 A. No.

6 MR. BIEDERMANN: Objection to form.

7 MR. STAMBAUGH: Q. How did you arrive at
8 40 percent market share? You testified that you
9 observed there were two co-conspirators. You said that
10 you looked at market data with respect to the market
11 share post-2005. Are there things that you observed?
12 You were actually able to review data. What did you do?
13 What data did you look at to arrive at the 40 percent
14 market share figure pre-2005?

15 MR. BIEDERMANN: Objection to form.

16 THE WITNESS: I don't recall what I did for
17 the 40 percent number and I don't have a footnote.

18 MR. STAMBAUGH: Q. If you --

19 A. That doesn't mean I didn't do anything or
20 don't have a method. It means I don't remember as I'm
21 sitting here right now.

22 Q. Well --

23 A. Your question was suggesting that I don't have
24 a method.

25 Q. You can't tell us here today, Dr. Zona, how

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1 you arrived at a 40 percent market share, correct?

2 MR. BIEDERMANN: Objection to form.

3 THE WITNESS: I don't remember the basis for
4 this 40 percent share that's in the sentence in
5 Paragraph 98 in my report, and there's no footnote that
6 will remind me what it is -- what it was.

7 MR. STAMBAUGH: Q. And, in fact, you can't
8 tell us anything about how you arrived at that
9 40 percent market share, as you sit here today, correct?

10 MR. BIEDERMANN: Objection; asked and answered
11 about six times. If you want to answer it again,
12 Dr. Zona, feel free.

13 MR. STAMBAUGH: I can understand your
14 frustration counsel, but I am entitled to an answer.

15 MR. BIEDERMANN: Yeah, and you've received it
16 about five times. So --

17 MR. STAMBAUGH: That was a separate question.
18 Isn't it true that, sitting here today, you can't tell
19 us anything about how you arrived at the 40 percent
20 market share figure for Sunny and Synta pre-2005?

21 MR. BIEDERMANN: Asked again about seven
22 times. If you want to answer it again, Dr. Zona, feel
23 free.

24 MR. STAMBAUGH: Pretty sure the record will
25 reflect that he didn't answer it the last time. Do you

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1 have the question in mind?

2 THE WITNESS: No. Why don't you ask me one
3 more time?

4 MR. STAMBAUGH: Q. To be fair, you didn't
5 answer it that time either. I got witnesses. Dr. Zona,
6 isn't it correct that you cannot tell us anything about
7 how you arrived at the 40 percent market share figure
8 for Synta and Sunny pre-2005 -- for Sunny and Synta
9 pre-2005, as you sit here today?

10 MR. BIEDERMANN: Objection to form. Misstates
11 testimony.

12 THE WITNESS: I told you that I think that's
13 incorrect.

14 MR. STAMBAUGH: Q. Why is it incorrect?

15 A. It's incorrect because I believe that's my
16 understanding of what Synta and Sunny's share was in
17 that time period. I have an understanding of what that
18 is. I also said before that it happens to produced the
19 smallest number of the ones in the table here. So it
20 would be most beneficial to you.

21 If you want to argue for a bigger number, you
22 know, we could do that and recalculate damages, but that
23 one is the one that produces the smallest ones of the
24 ones in the table here. So there are things that I'm
25 telling you about 40 percent and how I got to it.

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1 Q. I'll object as --

2 A. But I don't --

3 Q. Please.

4 A. But I don't recall specifically how I got the
5 40 percent, and I don't have a footnote where I probably
6 should have.

7 Q. I'll object as non-responsive and move to
8 strike. What is the basis for your, quote,
9 understanding that they had a combined market share of
10 40 percent?

11 A. I understand that they weren't the only
12 manufacturers at that time. The other -- I mean, I'm
13 not sure that the basis for that was the Orion, you
14 know, information from the Orion trial or not. I just
15 don't recall exactly what gives me that understanding,
16 but that's my understanding.

17 Q. So there's nothing you can tell us here today
18 that you would base that understanding on?

19 A. I've told you many times that I don't recall
20 where the 40 percent comes from in this particular
21 circumstance.

22 Q. And I can appreciate that.

23 A. The one number in here I don't remember --

24 Q. I can appreciate that. I just --

25 A. -- how it got there.

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1 Q. I'm sorry. I appreciate that you may not
2 recall. I'm simply clarifying the record that you
3 provided us no basis for that understanding here today;
4 isn't that correct?

5 MR. BIEDERMANN: Objection; form. Asked and
6 answered.

7 THE WITNESS: I told you I don't recall.

8 MR. STAMBAUGH: Q. So it's correct that you
9 can't tell us anything about how you arrived at that
10 figure; isn't that right?

11 A. You said --

12 MR. BIEDERMANN: Object to form. Asked and
13 answered.

14 THE WITNESS: You said anything again, and
15 I'll tell you what. I mean, I do have information about
16 40 percent is my understanding, and I'm not sure exactly
17 how I have that understanding. I also know that it's
18 the most conservative number on behalf of your client.

19 MR. STAMBAUGH: Q. Are there other opinions
20 that you have in your report that are based on your
21 understanding, but you don't have any evidence in
22 support of that understanding?

23 MR. BIEDERMANN: Object to form.
24 Argumentative.

25 THE WITNESS: I wouldn't --

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1 I don't recall as I sit here right now. There's --

2 Q. Understood.

3 A. We could go through each of the sentences in
4 here, I mean, I wouldn't have -- before you asked me, I
5 wouldn't have said do you -- is there another place
6 where you don't remember what you did and it's not
7 indicated by a footnote? And I would say -- I would
8 have thought that there aren't any such things, but you
9 found one.

10 Q. Well, the one that I found.

11 A. I'm not aware of any other ones, but we could
12 go through each thing. My name is John Douglas Zona. I
13 received a Ph.D. in economics. I mean, I have a basis
14 for that. I've seen my diploma.

15 Q. All right. The difference is, Dr. Zona, your
16 name and your diploma are not one of the two
17 foundational inputs in your model that leads you to
18 arrive at a 16.7 percent overcharge that you apply
19 across the board. So, to be fair, and I think it will
20 be clear to a judge or a jury when I asked what the
21 basis is for one of those two foundational inputs an
22 answer like I have an understanding, but I don't know
23 where I got that understanding is a little
24 disconcerting.

25 So I will ask -- we're going to move on, but

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1 I'm going to ask my other question again. Are there
2 other conclusions that you arrived at -- and these are
3 primary conclusions in your report -- are there any
4 other conclusions for which you have no basis to make an
5 opinion other than your own understanding apart from the
6 40 percent market share figure?

7 A. So I just --

8 MR. BIEDERMANN: I'm going to object to
9 counsel's argument. If you found a question there,
10 you're free to answer it, Mr. Zona -- Dr. Zona.

11 THE WITNESS: I just disagree with the
12 premise.

13 MR. STAMBAUGH: Q. You're free to disagree
14 with the premise.

15 A. I disagree with the premise, and I can't
16 answer the question.

17 Q. Why can't you answer the question?

18 A. Because I disagree with the premise. The
19 premise is false. So I can't answer a question with a
20 false premise.

21 Q. Let's try this one more time. What's false
22 about the premise?

23 MR. BIEDERMANN: Objection; argumentative.

24 THE WITNESS: What's false about the premise
25 is that you say that there are -- you're asking the

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1 question about whether there are other examples where I
2 have no basis for a number that's reported in the
3 report. That presumes that the 40 percent number that
4 we've been talking about has no basis. I don't agree
5 with that.

6 MR. STAMBAUGH: Q. But what is the basis?
7 I'm sorry.

8 A. You've asked this question many times, and I
9 told you I don't remember, as I sit here right now, and
10 my notes are insufficient to provide me with -- to
11 refresh my recollection.

12 Q. Fair enough.

13 A. I think that if I can go back to my work
14 papers, I'll find a basis for it.

15 Q. Doubtful, but fair enough.

16 A. Why is it doubtful?

17 Q. Are there any other conclusions listed in your
18 report, foundational inputs or outputs for which you
19 don't recall the basis for those figures, as you sit
20 here today?

21 A. I don't.

22 MR. BIEDERMANN: Objection; argumentative.
23 Asked and answered about seven times.

24 THE WITNESS: I don't know. We can go through
25 each one.

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1 we try again or repeat it or something?

2 Q. Dr. Zona, what was Meade's share as the
3 largest supplier of telescopes in the U.S. pre-2005?

4 A. You asked me that question. I told you that I
5 didn't know.

6 Q. What about Celestron's market share?

7 A. I don't know specifically. I just know that
8 they were large.

9 Q. What about --

10 A. They were the largest and the second largest.

11 Q. What about Tasco's share -- market share?

12 A. I told you before that I didn't separate out
13 Tasco -- Tasco Worldwide versus Celestron.

14 Q. What about JOC's market share pre-2005?

15 A. I don't recall. We went through this. I
16 don't recall specific market shares in that particular
17 time period.

18 Q. Did you do an analysis of market shares
19 pre-2005?

20 A. What do you mean by analysis?

21 Q. Did you look at any market share data or any
22 other empirical analysis to determine those market
23 shares?

24 MR. BIEDERMANN: Objection; asked and
25 answered.

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1 THE WITNESS: The corporate representatives of
2 the largest manufacturers -- manufacturer does not
3 compute market shares of itself or its competitors.
4 There's not market share data readily available. So,
5 no, I haven't looked at market share data.

6 MR. STAMBAUGH: Q. Then how in the world
7 could you estimate a 40 percent market share for Synta,
8 Sunny and Synta?

9 A. I don't --

10 MR. BIEDERMANN: Objection; argumentative.
11 Asked and answered.

12 MR. STAMBAUGH: Q. Does that make sense to
13 you?

14 MR. BIEDERMANN: Same objections.

15 THE WITNESS: No, it doesn't make sense to me.

16 MR. STAMBAUGH: Q. Does it make sense to you
17 that you could come up with a combined market share of
18 40 percent for Sunny and Synta when you just told me no
19 market share was available? None of the entities keep
20 data on it, and there was no other way to calculate it
21 with respect to, for instance, the distributor or
22 retailer side?

23 MR. BIEDERMANN: Objection; argumentative.

24 MR. STAMBAUGH: How would you possibly come up
25 with that 40 percent figure for Sunny and Synta?

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1 MR. BIEDERMANN: Objection; argumentative.

2 Compound. Asked and answered.

3 THE WITNESS: I think I've told you I don't

4 recall.

5 MR. STAMBAUGH: Q. Let's take a look at
6 Paragraph 50 of the November 1st or May 20th report,
7 depending on how you look at it. In Paragraph 50 you
8 state a market share of 50 percent or more has been
9 viewed by the courts as a threshold for market power.
10 Do you agree with that statement?

11 A. Yes.

12 Q. So what analysis did you do to determine that
13 a combined market share of 40 percent is sufficient for
14 Synta and Sunny to exercise market power in the pre-2005
15 time period?

16 MR. BIEDERMANN: Objection; misstates his
17 opinion.

18 THE WITNESS: I don't have that opinion.

19 MR. STAMBAUGH: Q. You don't believe that
20 Sunny and Synta had market power pre-2005?

21 A. I do, yes.

22 Q. What is that opinion?

23 A. That they had market power. They were able to
24 raise price above the competitive levels by acting
25 together.

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1 Q. Let's take it very slowly. Dr. Zona, is it
2 your opinion that Sunny and Synta had market power
3 pre-2005?

4 A. Yes.

5 Q. Not to rehash old wounds, is it your opinion
6 that during that time, pre-2005, Sunny and Synta had a
7 combined 40 percent market share?

8 A. My opinion is that that is -- is that is a
9 reasonable number to use for the purpose of calculating
10 an overcharge during that time period in the way that
11 I've done it.

12 Q. What analysis did you perform in order to
13 determine that Sinna -- Synta and Sunny's combined
14 40 percent market share was sufficient to exercise
15 market power in the pre-2005 time period?

16 A. So -- so could we -- I know this is a
17 question. But could we -- could we take this as a
18 question as of is 40 percent sufficient to establish
19 market power? Is that your question enough?

20 Q. No, sir. I'd appreciate an answer to my
21 question.

22 A. Okay. Then you have to break it down for me
23 further.

24 Q. What analysis did you do to determine that the
25 combined 40 percent market share for Synta and Sunny was

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1 powers, high market share, high barriers to entry. So I
2 looked at high barriers to entry. None of it was
3 specific to that time period. It was all general over
4 the whole time period, but I believe that I.P. was
5 important. I believe that there's still scale issues
6 and significant learning by doing. It makes sense in
7 this kind of industry.

8 Q. And based on this analysis, is it your
9 assumption that Celestron, an independent manufacturer
10 and distributor at this time, pre-2005, charged prices
11 16.7 percent above the competitive benchmark?

12 MR. BIEDERMANN: Objection; form.

13 THE WITNESS: Yes.

14 MR. STAMBAUGH: Q. What is the basis for that
15 assumption?

16 A. Well, the number you quoted is based on the
17 PIC data, so it must be the PIC data.

18 Q. Is it based on anything else?

19 A. You asked me about a specific number. You
20 could -- if you -- given that you're asking about a
21 specific number, the basis for that specific number is
22 the PIC data if you said more than 10 percent, then I
23 might tell you something else, but you're asking about a
24 very specific number.

25 Q. What analysis or investigation did you conduct

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1 to determine that Celestron would or could raise prices
2 16.7 percent in response to the anti-competitive
3 conduct?

4 A. May I have the question again?

5 Q. Could you please read it back?

6 A. I'm not sure who to ask.

7 (Record read by the reporter:

8 "QUESTION: What analysis or investigation
9 did you conduct to determine that Celestron
10 would or could raise prices 16.7 percent in
11 response to the anti-competitive conduct?")

12 THE WITNESS: So are you referring to 2001 to
13 2005? What time period are you referring to?

14 MR. STAMBAUGH: Q. Let me clarify for this
15 question as has been the case for the last hour. I'm
16 referring to the pre-2005 time period. We're going to
17 continue to refer to that time period for purpose of my
18 question. What analysis did you do to support your
19 assumption that Celestron could or would raise prices
20 16.7 percent in response to the anti-competitive
21 conduct?

22 A. So the conclusion that, based on the PIC data,
23 which is one measure of a price inflation based on the
24 conspiracy of Synta and Sunny before 2005 when they
25 acquired their competitor, before that time period, when

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1 they acquired their competitor, based on the industry
2 characteristics and measured with Connor's PIC dataset,
3 which reflects how well conspiracies were able to raise
4 price above to competitive level the number
5 16.7 percent.

6 So that's -- that's the -- the line of -- the
7 reasoning, chain of reasoning, for the 16.7, and it
8 would raise, you know, under that model, the market
9 price would be raised by 16.7 percent, and all the
10 participants, the conspirators, the non-conspirators,
11 including Meade and Celestron would have been able to
12 enjoy that elevated price.

13 Q. Is it your opinion that Celestron actually did
14 charge or raise prices 16.7 percent above the
15 competitive benchmark from 2001 to 2005?

16 A. 16.7 is one number based on one method. I
17 mean, whether it's -- it might be more than 16.7, it
18 might be less, but the best estimate that I have based
19 on the PIC data is 16.7 percent.

20 MR. BIEDERMANN: I'll object as non-responsive
21 and move to strike. Can you read back the question,
22 please?

23 (Record read by the reporter:

24 "QUESTION: Is it your opinion that
25 Celestron actually did charge or raise

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1 A. He said when you are giving --

2 MR. BIEDERMANN: Let's not disclose the --

3 THE WITNESS: -- the contents. Okay.

4 MR. BIEDERMANN: We're -- I can represent we
5 did not discuss the content of Dr. Zona's opinions.

6 MR. STAMBAUGH: Q. Do you agree with that
7 representation?

8 A. Yes.

9 Q. Dr. Zona, it's no secret there's been some
10 discussion about the PCE variable between the experts in
11 this case. I want to draw your attention to Exhibit 4,
12 which is the rebuttal report.

13 A. Okay.

14 Q. Paragraph 16 in particular.

15 A. Yes.

16 Q. Paragraph 16, about midway through the
17 paragraph, you state, Additionally, my refusal to deal
18 analysis in the Orion litigation forecasted future sales
19 volumes to U.S. consumers, which relates to the
20 aggregate income of U.S. consumers and makes the use of
21 a PCE variable more appropriate. You see where that's
22 listed?

23 A. Yes.

24 Q. Okay. And I believe the reason you're having
25 this discussion is there was mention of the fact that

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1 you did include the PCE variable in your Orion expert
2 analysis, correct?

3 A. I did include the PC -- PCE variable in some
4 of in my opinion Orion analysis. Yes, I did.

5 Q. Okay. And that's why you're saying here it
6 was appropriate in the Orion litigation because you were
7 forecasting future sales volumes to U.S. consumers,
8 which relates to the aggregate income of U.S. consumers
9 and makes the use of a PCE variable more appropriate.

10 Is it your position, Dr. Zona, that the PCE
11 variable is a measure of U.S. consumers' aggregate
12 income?

13 A. No, it's expenditures.

14 Q. Is it your position that the aggregate income
15 of U.S. consumers affects the sales volume of telescopes
16 to U.S. consumers?

17 A. I think that was the idea in the Orion model
18 of specifically forecasting volumes, not prices. So I
19 was trying to predict what Orion's volumes would be. So
20 I'm trying to use variables that would meet with that
21 volumes. So, I mean, the purpose of this paragraph --
22 you said why did I write 16 -- I'm trying to
23 differentiate a situation where I'm forecasting volumes
24 with a price regression, which is what I have in the
25 current case.

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1 Q. So --

2 A. Totally different analysis and totally
3 different purpose.

4 Q. So you would agree that the aggregate income
5 of U.S. consumers affects the sales volumes of
6 telescopes to U.S. consumers?

7 A. It might.

8 Q. All things being equal, if the sales of
9 telescopes to U.S. consumers increases, would one expect
10 that to affect the price of telescopes?

11 A. No.

12 Q. Why not?

13 A. Well, prices for profit maximizing firms are
14 based on a mark-up formula where the price, the
15 approximate maximizing price is equal to cost plus
16 something. It's like just basic industrial organization
17 economics. So its price is equal to cost plus a mark-up
18 that has to do with how sensitive revenues will be to
19 prices charged. So it's a -- it's a measure of
20 sensitivity.

21 Q. So it's your --

22 A. The sensitivity may or may not change with
23 increases in income.

24 Q. So it's your testimony that an increase in
25 volume would have no effect on the price of the

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1 members, and the average in that case is the 42 percent.
2 That's the basis -- yeah, I mean, that's the basis of
3 the -- those 61 observations are the basis for that
4 table on page 37, which that is notorious 40 percent and
5 16.7 numbers in there. That's a regression.

6 MR. STAMBAUGH: Q. Dr. Zona, do you agree
7 that the economic literature makes clear that yardsticks
8 have to be comparable to the industry in question in
9 order for that analysis to be effective?

10 A. Yeah, I think so.

11 Q. What analysis --

12 A. I wouldn't be surprised. I don't recall that,
13 but I wouldn't be surprised.

14 Q. What analysis did you conduct to determine
15 that each of the 61 industries in the Connor PIC data
16 that you used as yardsticks were comparable to the
17 telescope industry?

18 A. They're comparable because the number of
19 conspirators and the size of the market that the
20 conspirators captured. That's the relevant information
21 for doing what would be expected to affect the
22 overcharge in the circumstances.

23 Q. So, for instance, one of those 61 observations
24 is the cement and concrete ready mix industry in coastal
25 Georgia. Did you do any analysis to determine if that

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1 industry is comparable at all to the consumer telescope
2 industry?

3 A. Sure. I did what I just said. I compared the
4 number of people invol- -- number of firms involved in
5 the cartel between two and four, and I also limited it
6 based on the number of the market share.

7 Q. Any other independent --

8 A. Sorry. I just -- I did not limit it by market
9 share. I included that as a variable in the regression
10 when I did that analysis.

11 Q. Any other independent analysis that you
12 conducted other than what you've just mentioned?

13 A. What I described is what's in my report and
14 that's what I did.

15 Q. And I'll represent to you that one of those 61
16 observations is the heavy lift marine industry --
17 construction industry. Did you do any analysis other
18 than what you've already mentioned to see if that's
19 comparable to the consumer telescope industry?

20 MR. BIEDERMANN: Objection to form.

21 THE WITNESS: It's comparable in terms of the
22 competitive circumstances.

23 MR. STAMBAUGH: Q. So the answer --

24 A. In the same way that the other one was.

25 Q. So the answer to my question is no, you didn't

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1 do any other independent analysis to see if there were
2 any comparisons?

3 MR. BIEDERMANN: Objection to form.

4 MR. STAMBAUGH: Q. Other than what you've
5 already mentioned?

6 A. No, I only did what I've described.

7 Q. Is it important to control for any differences
8 between the yardstick and a market under consideration?

9 A. I think I have controlled. It is important
10 and I have controlled.

11 Q. How did you control for them, the differences?

12 A. The way that I've already described.

13 Q. What controls or independent variables did you
14 include in your Connor PIC regression analysis that
15 would control for the differences between the 61
16 industries and the consumer telescope industry?

17 A. I think just the -- the number of conspirators
18 in the market share that they commanded those two
19 variables.

20 Q. Let's turn --

21 A. I mean, as I recall, neither of those
22 variables were significant in the regression that I did,
23 which means that there's no statistical difference
24 between the rows and columns that appear in the table on
25 page 37.

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1 shipment included telescopes as well as other products
2 in the product description?

3 A. Yes.

4 Q. Why?

5 A. Because I didn't want to mix like almost
6 literally apples and oranges. I was trying to identify
7 those containers that came that contained only
8 telescopes and computed market shares based on the only
9 full containers rather than partial containers.

10 Q. For those telescope shipments that you
11 excluded, do you know whether it is more or less likely
12 that the excluded shipments were defendant or
13 non-defendant telescopes?

14 A. I don't know that. We might be able to tell,
15 but I didn't do that, and I don't know.

16 Q. Dr. Zona, do all telescopes have the same
17 weight?

18 A. No.

19 Q. So it's possible that two shipments that weigh
20 the same, one shipment may have a larger number of
21 telescopes than the other shipment?

22 A. Right.

23 Q. And it's also possible that for two shipments
24 that weigh the same, one shipment may contain
25 higher-priced telescopes than the other shipment?

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1 A. Sure.

2 Q. Did you use the exact same data to perform the
3 market share analysis in this case as you did in the
4 Orion matter?

5 A. No.

6 Q. Why not?

7 A. I couldn't get the Panjiva data. Again -- and
8 I got this -- Import Genius, which is also like a data
9 collector, it's the same sort of stuff based off the
10 bill of lading, but it was available to me for this
11 later time period, not what I was able to get five years
12 ago.

13 Q. I'm sorry. Is it your testimony that the data
14 you used for market share analysis in this case was not
15 available five years ago?

16 A. I don't know whether it was available
17 five years ago or not. The Panjiva data wasn't
18 available now or I wasn't able to get it.

19 Q. The data that you used in the Orion case was
20 not available this time around for this case?

21 A. For -- yeah, for some reason. It could have
22 been cost. I don't recall. It might have been
23 available paying a high price or something. Panjiva I
24 think is still around, but I don't know that they had
25 that particular data. I know as we were looking for a

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1 data source, we tried to get the Panjiva the same thing,
2 and we got -- determined that there was another source
3 that would be the same Import Genius.

4 Q. Who is "we" determined?

5 A. Well, I determined, but we looked, we being
6 Chris Gross that works for me on this particular case.

7 Q. You're talking about your team?

8 A. Yeah, my team, me and Chris.

9 Q. Did counsel at BraunHagey & Borden tell you to
10 use any particular market share data?

11 A. No, I don't think so.

12 Q. Let's scroll to Paragraph 115 of this report.

13 A. Yes.

14 Q. So in Paragraph 115, you are calculating
15 damages by incorporating Meade sales during the period
16 of Sunny ownership from September 2013 through 2019; is
17 that correct?

18 A. That's the intent, yes.

19 Q. And you calculated Meade sales during that
20 time period as approximately 68 million; is that
21 correct?

22 A. Yes.

23 Q. Is it possible that some of those Meade sales
24 may be outside the U.S.?

25 A. It looks like in Paragraph 115, I'm saying

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1 that in particular does not appear to be possible to
2 identify Meade's telescope sales versus other sales nor
3 whether the customer was U.S. based, so I can't tell
4 from the data that I had.

5 Q. You can't tell whether or not the sales were
6 in the U.S. or outside the U.S., correct?

7 A. Right. I don't know.

8 Q. And it's also possible that some of those
9 sales may be in products other than telescopes, correct?

10 A. It's possible. I don't know what was produced
11 exactly.

12 Q. Did you --

13 A. This is a data that we received.

14 Q. Did you speak to anyone at Meade about the
15 Meade sales data that you used to calculate the
16 68 million in sales?

17 A. I'm not sure. There was a lot of back and
18 forth on data, and I don't know if that was part of it
19 or not.

20 Q. Did you speak to anyone at Orion regarding the
21 Meade sales data that you used to calculate this
22 68 million in Meade sales?

23 A. I did not, no.

24 Q. Do you have any documents or correspondence
25 that explained how to interpret the Meade sales data,

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CERTIFICATE

I, the undersigned, a Certified Shorthand Reporter, State of California, hereby certify that the witness in the foregoing deposition was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of the said witness was reported by me, a disinterested person, and was thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete, and true record of said testimony; and that the witness was given an opportunity to read it and, if necessary, correct said deposition and to subscribe the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed this 29th day of December, 2024.

Laura Axelsen
LAURA AXELSEN, C.S.R. 6173